

REMARKS

The Examiner has required an election in the present application between:

Species 1, illustrated in Fig(s). 1 and 2;

Species 2, illustrated in Fig. 3;

Species 3, illustrated in Fig. 4;

Species 4, illustrated in Fig(s). 5 and 6;

Species 5, illustrated in Fig(s). 7, 8 and 9;

Species 6, illustrated in Fig(s). 10 and 11,

Species 7, illustrated in Fig(s). 10, 12 and 13,

Species A,

Species B, and

Species C.

.For the purpose of examination of the present application, Applicants elect Species 1, claim 2 and Species C, claims 14 and 34, with traverse.

Claim(s) 2, 14 and 34 are directed to the elected species. As acknowledged by the Examiner, at least claim(s) 1, 11, 17, 23-32, 35 and 36 are generic to Species 1 and C. Thus, at least claims 1, 2, 11, 14, 17, 23-32, and 34-36 should be examined.

The restriction/election requirement is traversed for the following reasons:

1. Generic claims of the present application are believed to be in condition for allowance. Species 1-7 and A-C (claims 1-36) are all generally directed to a single generic invention. Moreover, claims 12, 13, and 14 describe technical features which are merely different styles “relat[ing] to a single inventive concept.” Accordingly, Applicants respectfully submit as inappropriate the division of these claims into three different species (Species A to C).
2. The Examiner cites, as support for the Restriction/Election of species, PCT Rules 13.1 and 13.2. Applicants respectfully remind the Examiner that the present application is a U.S. application. Therefore, application of PCT rules alone is improper. U.S. law and/or Rules should be applied in order to require a Restriction/Election of species.
3. Furthermore, for a proper Restriction/Election Requirement, the Examiner must demonstrate that 1) the claims are either independent or distinct, and 2) a serious burden will be on the Examiner to examine all claims. MPEP § 803. The Examiner’s “demonstration” that the claims are independent or distinct admits in section 3 (page 4) that the claims recite a “combination of steps or elements as an implementation of the concept claimed in the generic claims.” Consequently, as all species are thus related “to a single general inventive concept,” they are not distinct such that a Restriction/Election Requirement would be proper.
4. Moreover, in the instance of the election of species requirement, the Examiner did not even allege, much less demonstrate, that there would be serious burden to examine claims directed to Species 1-17. Thus, the Examiner failed to meet all requirements necessary to make the Restriction/Election Requirement proper.

As set forth in § 803, an Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Applicants respectfully submit that a serious burden is not placed on the Examiner to additionally consider the claims of Species 2-7 and A-B. A review of the subject matter set forth in the claims will

have an overlapping search. Thus, a different field of search does not exist with regard to at least claims 3-10, 12-13, 15-16, 18-22, and 33 of the present application.

Applicants therefore respectfully request that the Examiner withdraw the Election of Species Requirement.

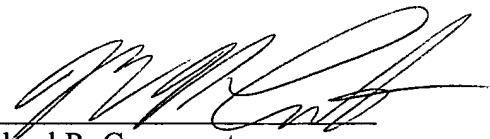
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact James C. Larsen, Registration No. 58,565 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: June 13, 2008

Respectfully submitted,

By 
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